

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DK LIPA LLC,

Plaintiff,

-against-

SB ENERGY HOLDINGS, LLC (formerly known as
SYBAC SOLAR, LLC) and MISF, LLC,

Defendants.

No: 19-cv-1405 (LGS)(DF)

~~PROPOSED~~ ORDER AND
STIPULATION REGARDING
(1) CONSOLIDATION; and (2)
SCHEDULING

DF

DK LIPA LLC,

Plaintiff,

-against-

MISF SOLAR LLC, PROJECT NY LLC, MASTIC
INDUSTRIAL SOLAR LLC, GERALD
ROSENGARTEN, HOWARD ROSENGARTEN,
SION SOHAYEGH, BIJOUN KAYPOUR, ARTUR
MADEJ, THOMAS FALZ, ULRICH FALZ, and
MARKUS FALZ,

Defendants.

No: 20-cv-4273 (LGS)(DF)

Through their respective counsel, the undersigned parties, SB Energy Holdings, LLC (formerly known as Sybac Solar, LLC) (“Sybac”), MISF, LLC (“MISF”), MISF Solar LLC (“MISF Solar”), Project NY LLC (“Project NY”), Mastic Industrial Solar LLC, Gerald Rosengarten, Howard Rosengarten, Sion Sohayegh, and Bijoun Kaypour, and Markus Falz¹,

¹ Thomas Falz and Ulrich Falz, defendants in the 2020 Action, are represented by Farrell Fritz, which is signing this stipulation on behalf of SB Energy, Project NY, and Markus Falz. However, Thomas Falz and Ulrich Falz have not yet appeared in the 2020 Action. Therefore, Farrell Fritz is not signing this stipulation on behalf of Thomas Falz and Ulrich Falz.

HEREBY STIPULATE AND AGREE, that the above-captioned cases with the index numbers 19-cv-1405(LGS)(DF) (the “2019 Action”) and the 20-cv-4273 (the “2020 Action”) should be consolidated for all purposes.²

IT IS FURTHER STIPULATED AND AGREED that the 2019 Action and 2020 Action are consolidated without prejudice to any right; privilege; entitlement to the benefit of any statute, rule or legal or equitable doctrine; cause of action, including a claim or counterclaim; defense, including as to the passage of time or statute of limitations; offset; remedy or form of relief; or argument that any party had prior to consolidation, and all of which each party expressly reserves and does not, by virtue of entering into this Stipulation and Proposed Order, waive, abandon, relinquish or otherwise forego;

IT IS FURTHER STIPULATED AND AGREED that the Court is respectfully requested to order the following discovery deadlines:

- (1) The deadline for completion of non-expert depositions is extended to December 18, 2020;
- (2) The deadline for service of expert reports is extended to January 19, 2021;
- (3) The deadline for rebuttal reports is extended to February 18, 2021;
- (4) The deadline for completion of expert discovery shall be March 19, 2021.

IT IS FURTHER STIPULATED AND AGREED that facsimile or electronic signatures of this Stipulation shall be deemed originals hereof.

² Artur Madej, a defendant in the 2020 Action is not a party to this stipulation. He was served with the Complaint in the 2020 Action on July 14, 2020 and is expected to answer or otherwise respond to the Complaint by August 4, 2020.

DATED: New York, New York
July 24, 2020

<p>By: <u>/s/ Rishi Bhandari</u></p> <p>MANDEL BHANDARI LLP Rishi Bhandari A. Leah Vickers Donald Conklin 80 Pine Street, 33rd Floor New York, NY 10005 T: (212) 269-5600 F: (646) 964-6667 rb@mandelbhandari.com</p> <p><i>Attorneys for Plaintiff DK LIPA LLC</i></p>	<p>By: <u>/s/ Craig Kesch</u></p> <p>GANFER SHORE LEEDS & ZAUDERER LLP Craig Kesch 360 Lexington Avenue New York, NY 10017 T: (212) 922-9250 F: (212) 922-9335 ckesch@ganfershore.com</p> <p><i>Attorneys for Defendant MISF SOLAR LLC</i></p>
<p><u>/s/ Louis Fogel</u></p> <p>By: _____</p> <p>LOUIS FOGEL & ASSOCIATES Louis Fogel 75 Wall Street, Suite 33-A New York, NY 10005 T: (212) 944-1580 F: (212) 944-1869 LouisFogel@LouisFogelLaw.com</p> <p><i>Attorneys for Defendants MISF, LLC, Mastic Industrial Solar LLC, Gerald Rosengarten, Howard Rosengarten, Sion Sohayegh, and Bijoun Kaypour</i></p>	<p>By: <u>/s/ Kathryn Cole</u></p> <p>FARRELL FRITZ, P.C. James Wicks Kathryn Cole</p> <p>400 RXR Plaza Uniondale, NY 11556 T: (516) 227-0617 F: (516) 336-2763 jwicks@farrellfritz.com kcole@farrellfritz.com</p> <p><i>Attorneys for Defendants SB Energy, LLC, Project NY LLC, Markus Falz</i></p>

SO ORDERED:

The decision as to whether to consolidate these cases for trial will be made by Judge Schofield, but the proposed coordinated discovery schedule is adopted.

DF

Dated: 7/27/2020

By: 

DEBRA FREEMAN, U.S. Magistrate Judge